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10/667,026	09/18/2003	Darrin W. Kabel	702.254	9123

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EXAMINER

MEHMOOD, JENNIFER

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,026

Applicant(s)

KABEL ET AL.

Examiner

Jennifer A. Mehmood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-10,19-23,27-34 and 38-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-10,19-23,27-34 and 38-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>July 25, 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 52 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 52 and 53 recites the limitations "the first manner" and "the second manner" in lines 1-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 19, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey et al. (US 4,873,676).

For claim 19, Bailey discloses a method for marine navigation, comprising: receiving one or more preselected conditions from a user (col 7, Ins 62-68; col 8, Ins 1-4, 19, and 20; Fig. 1, item 15a, 16a); receiving a user defined graphical filter area from the user (col 4, Ins 11-14; col 8, Ins 15-17); identifying the user defined graphical filter

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area on a display (col 8, Ins 25-37; Fig. 1, item 15a); analyzing cartographic data only within the user defined graphical filter area for the preselected conditions (col 3, Ins 26-36 and 46-48); and providing an alert signal when cartographic data within the user defined graphical filter area indicate the preselected conditions (col 9, Ins 1-15; col 15, Ins 25-28; col 23, Ins 30-38; col 28, Ins 40-45).

For claim 20, Bailey discloses identifying the user defined graphical filter area includes repositioning the user defined graphical filter area (col 3, Ins 30-36; col 4, Ins 11-24; col 8, Ins 14-20; col 10, Ins 59-68; col 11, Ins 1-17).

For claim 22, Bailey discloses receiving preselected conditions selected from the group of land, water depth, rock(s), sandbars, shelves, tide condition, tidal data, wind conditions, ice, above-water obstacles, underwater obstacles, type of water bottom, and prohibited areas (col 10, Ins 50-55; col 28, Ins 18-32 and 40-45).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 5-10, 23, 27-29, 38, 39, 42-44, 58-61, 66, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 2004/0006423) and further in view of Michaelson et al. (US 6,734,808).

For claims 1, 44, 60, 61, 66, and 67 Fujimoto discloses a method for marine navigation, comprising: receiving one or more preselected conditions from a user (parag 0115; parag 0018; 0047; 0115; Fig. 17a-c, items 301, 302); identifying a potential waypoint (paragraph 0071, 0072; Figure 4); and performing a marine route calculation algorithm to route a course between a first location and the potential waypoint avoiding the preselected conditions (parag 0076-0078), including analyzing cartographic data between the first location and the potential waypoint (parag 0023, 0132, 0133; Fig. 22a, 22b) and re-routing the course to avoid the preselected conditions (parag 0023, 0132, 0133; Fig. 22a, 22b). Fujimoto discloses identifying user waypoints (parag 0140, Ins 1-5), but does not disclose identifying non-user waypoints. Michaelson, on the other hand discloses re-routing a course by identifying one or more non-user waypoints (determined by the system, not the user) between the first location and the potential waypoint (col 24, Ins 41-50 and 55-64). It would have been obvious to disclose non-user waypoints so that an operator of a ship relies on automatic navigation between a point of origin and a destination without constantly monitoring the ship's travel route.

For claims 5 and 27, Fujimoto determines a first location on the course based on a signal from a GPS; and analyzing cartographic data for a predetermined area around the first location for preselected conditions (parag 0067, Ins 1-10; parag 0068, last 9 lines; parag 0071, 0072).

For claims 6, 28, and 39 Fujimoto does not disclose an alert signal; however, Michaelson discloses an alert signal when analyzed cartographic data for a predetermined area around a location includes preselected conditions (col 5, Ins 35-40;

col 13, lns 56-67). It would have been obvious to provide an alert signal so that a ship's operator acknowledges an alert and verifies that the ship is maneuvered around a preselected condition to ensure the safety of the ships passengers.

For claims 7, 30, and 40 Fujimoto discloses analyzing cartographic data between the first location and the potential waypoint includes preselected conditions, but does not disclose an alert signal between a first location and a potential waypoint; however, Michaelson discloses an alert signal is provided when the analyzed cartographic data for the predetermined data between the first location and the potential waypoint (col 5, lns 35-40; col 13, lns 56-67). It would have been obvious to provide an alert signal so that a ship's operator acknowledges an alert and verifies that the ship is maneuvered around a dangerous condition to ensure the safety of the ships passengers.

For claims 8 and 31, the claim is interpreted and rejected for the same reasons as stated in the rejections of claim 6 and 7 as stated above. In addition, Michaelson discloses the alert signal includes emitting an audio alert (col 6, lns 15-18; Fig. 2, item 28). It would have been obvious to emit an audio alert so that a ship's operator acknowledges an alert and verifies that the ship is maneuvered around a preselected condition to ensure the safety of the ships passengers.

For claims 9 and 32, the claim is interpreted and rejected for the same reasons as stated in the rejections of claim 6-8 as stated above. Michaelson discloses providing the alert signal to include displaying a visual alert (Fig. 48). It would have been obvious to emit a visual alert so that a ship's operator acknowledges an alert and verifies that

the ship is maneuvered around a preselected condition to ensure the safety of the ships passengers.

For claim 10, Fujimoto discloses receiving preselected conditions, but does not include weather conditions. However, Michaelson discloses this feature (col 26, Ins 18-30). It would have been obvious to include weather conditions, so that an operator of a ship predicts changing weather patterns via a weather radar display.

For claim 23, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 1 as stated above. In addition, Fujimoto discloses a computer readable medium having a set of computer readable instructions (parag 0067, Ins 1-10; parag 0068, Ins 1-8 and last 12 lines) for receiving one or more preselected conditions as discussed in the limitations of claim 1.

For claim 29, Fujimoto discloses acquiring cartographic data from a GPS (parag 0067, Ins 1-10; parag 0068, last 9 lines; parag 0071, 0072).

For claim 34, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 1 as stated above, regarding re-routing a course and non-user selected waypoints. Furthermore, Fujimoto discloses an electronic marine navigation device, comprising: a processor; a user interface operatively coupled to the processor, wherein the user interface receives one or more preselected conditions from a user (parag 0018; 0047; 0115; Fig. 17a-c, items 301, 302); a location input operatively coupled to the processor, wherein the location input receives a first location and a potential waypoint separate from the first location (parag 0067, Ins 6-12; Fig. 1, items 2, 3); and a memory operatively coupled to the processor and the location input (parag

0116), the memory having cartographic data including data related to the preselected conditions (parag 0115), wherein the processor operates on a marine route calculation algorithm to analyze a course between the first location and the potential waypoint in view of the preselected conditions of the cartographic data.

For claim 38, Fujimoto discloses a GPS system operatively coupled to the processor (Fig. 1, items 3, 6; parag 0066, Ins 1-3, 12-16), wherein the processor determines the first location on the course based on a signal received from the GPS (parag 0068, last 9 lines), and analyzes cartographic data for a predetermined area around the first location for preselected conditions (parag 0072; 0113). Even though Fujimoto does not specifically disclose a GPS receiver, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a GPS receiver to receive signals from a satellite in order to determine the ships position.

For claim 42, Fujimoto discloses a first location and a potential waypoint independent of a current location of a device implementing the method (parag 0139; 0140).

For claim 43, Fujimoto discloses at least a portion of the course is unrelated to a current heading of a device implementing the method (parag 0140, last 10 lines).

For claims 58 and 59, Fujimoto discloses the step of displaying the course from the first location to the potential waypoint via user selected waypoints (parag 0067, Ins 6-12), but not non-user selected waypoints. However, Michaelson discloses displaying the course from the first location to the potential waypoint via non-user user selected waypoints (col 25, Ins 55-63; Fig. 34, item 4000; Figs. 35, 36). It would have been

obvious to display all user waypoints, so that an operator of a ship predicts the path of travel.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey et al. (US 4,873,676), and further in view of Fujimoto et al. (US 2004/0006423).

Bailey discloses analyzing cartographic data, but does not acquire the cartographic data from a GPS; however, Fujimoto discloses acquiring cartographic data from a GPS (parag 0067, Ins 1-10; parag 0068, last 9 lines; parag 0071, 0072). It would have been obvious to acquire cartographic data from a GPS so that a ship's captain relies on accurate real-time data in order to ensure a navigational route.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 2004/0006423) and Michaelson et al. (US 6,734,808), and further in view of Tobin, Jr. (US 4,323,992).

Fujimoto does not disclose the preselected condition of water depth; however, Michaelson discloses a preselected condition of water depth (col 8, Ins 54-62; col 9, Ins 6-16 and 36-39). It would have been obvious to include the preselected condition of water depth so that a ship's operator acknowledges a dangerous water depth and verifies that the ship is maneuvered around or away from an insufficient water depth to ensure the safety of the ships' passengers.

10. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 20045/0006423) and Michaelson et al. (US 6,734,808), as applied to claim 34, and further in view of Bailey et al. (US 4,873,676).

Fujimoto discloses a processor to operate on the marine route calculation algorithm to analyze cartographic data (parag 0067, Ins 6-12; parag 0068, Ins 1-10); however, Fujimoto does not disclose an alert signal. Michaelson discloses an alert as discussed in the rejection of claim 6. However, Fujimoto does not disclose a user defined graphical filter area. Bailey, on the other hand, does disclose a user defined graphical filter area (col 4, Ins 11-14; col 7, Ins 62-68; col 8, Ins 1-4, 15-17, 25-37; Fig. 1, item 15a, 16a); wherein a processor operates to analyze cartographic data within the defined graphical filter area and provides an alert signal when the analyzed cartographic data for the user defined graphical filter area includes preselected conditions. It would have been obvious to display cartographic data as a user defined graphical filter area so that a user has a certain degree of control over the display in order to customize it according to the user's preferences.

11. Claims 45, 46, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (US 2004/0006423) and Michaelson et al. (US 6,734,808) further in view of Walsh et al. (US 3,886,487).

For claim 45, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 1 as stated above. In addition, Fujimoto discloses a method for marine navigation, comprising: receiving indication of a preselected condition from a user (parag 0047; parag 0115; Fig. 17a-c, items 301, 302); identifying a potential waypoint (paragraph 0066; 0072, lines 1,2); and performing a marine route calculation algorithm to route a course between a first location and the potential waypoint (parag 0068, Ins 5-8) in order to avoid the preselected condition. Fujimoto, on the other hand,

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discloses neither receiving indication of a minimum water depth from a user nor avoiding water depth less than the minimum water depth. However, Walsh discloses receiving indication of a minimum water depth from a user and avoiding water depth less than the minimum water depth (col 2, lns 13-19; col 3, lns 21-30; col 8, lns 24-34, 53-60; col 9, lns 1-10; Fig. 4, items 182, 184, 186, 188, 98; Figs. 1 and 2, items 40, 42, 48). It would have been obvious to avoid a water depth less than the minimum water depth so that a ship's operator acknowledges a dangerous water depth and verifies that the ship is maneuvered around or away from an insufficient water depth to ensure the safety of the ships' passengers.

For claim 46, Fujimoto discloses displaying a visual indication of places along the calculated course to include expected preselected conditions (parag 0047; parag 0115; Fig. 17a-c, items 301, 302); however, Fujimoto does not disclose the preselected conditions to include a water depth that is expected to approach the minimum water depth. Walsh, on the other hand, discloses receiving indication of a water depth that is expected to approach the minimum water depth. (col 3, lns 21-30; col 8, lns 24-34, 53-60; col 9, lns 1-10; Fig. 4, items 182, 184, 186, 188, 98; Figs. 1 and 2, items 40, 42, 48). It would have been obvious to avoid a water depth less than the minimum water depth so that a ship's operator acknowledges a dangerous water depth and verifies that the ship is maneuvered around or away from an insufficient water depth to ensure the safety of the ships' passengers.

For claim 62, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 1 and 58 as stated above.

12. Claims 47-57, and 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto et al. (2004/0003958) and further in view of Fujimoto et al. (US 2004/0006423) and Michaelson et al. (US 6,734,808).

For claims 47 and 54, Fujimoto '958 discloses a method for marine navigation comprising: receiving indication of a minimum water depth from a user (Fig. 3, item 47; parag 0125, Ins 7-14; parag 0126, Ins 3, 4, 10-17); displaying marine cartographic data (Fig. 3); displaying substantially straight line between a first location and a second location, wherein the line depicts both where the water depth is expected to be greater than the minimum water depth and where the water depth is expected to be less than the minimum water depth (parag 0073; Fig. 3, items 45, 47, 43; parag 0125, Ins 6-15). Fujimoto '958, however, discloses neither receiving indications of waypoints nor performing a marine route calculation algorithm to route a course between a first location and a potential waypoint avoiding water depth less than a minimum water depth. Fujimoto '423, on the other hand, discloses receiving indications of waypoints and performing a marine route calculation algorithm to route a course between a first location and a potential waypoint avoiding a preselected condition (parag 0075-0078; parag 0115; 0047; 0115; Fig. 17a-c, items 301, 302). It would have been obvious to receive indications of waypoints and perform a marine route calculation algorithm to route a course between a first location and a potential waypoint avoiding water depth less than the minimum water depth so that accurate navigation is achieved while avoiding low water levels to ensure the safety of the ships' passengers. Furthermore, Fujimoto does not disclose highlighting the water depth line, however, Michaelson

discloses highlighting a terrain threat indication. It would have been obvious to emphasize a water depth line by highlighting so that an individual easily recognizes and avoids locations of low water levels that are threatening to the path of travel.

For claim 48, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 47 as stated above. In addition, the line distinguishes where the water depth is expected to be greater than a preset minimum water depth from where the water depth is expected to be less than the minimum water depth (parag 0073; Fig. 3, items 45, 47, 43; parag 0125, Ins 6-15).

For claim 49, Fujimoto '958 discloses the minimum water depth is user selectable (Fig. 3, item 47; parag 0125, Ins 7-14; 0126, Ins 3, 4, 10-17).

For claim 50, Fujimoto '958 discloses a line depicted in a first manner where the water depth is expected to be greater than the minimum water depth and the line is depicted in a second manner where the water depth is expected to be less than the minimum water depth (parag 0133; Fig. 23, items 128, 124, 125; parag 0129).

For claim 51, Fujimoto '958 discloses the line displayed on the marine cartographic data in a plan view (Fig. 22, 23).

For claims 52 and 53, Fujimoto discloses a water depth line but does not disclose first and second manners of displaying a line; however, Michaelson discloses first and second colors to display terrain indications (col 27, Ins 40-65; Fig. 48). It would have been obvious to emphasize a water depth line by color changes so that an individual easily recognizes and avoids low water levels that are threatening to the path of travel.

For claims 55 and 56, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 1 and 54 as stated above.

For claim 57, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 48 and 52 as stated above.

For claims 63 and 64, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 1, 58, and 59 as stated above.

For claim 65, the claim is interpreted and rejected for the same reasons as stated in the rejection of claims 48 and 53 as stated above.

Response to Arguments

13. Applicant's arguments filed July 25, 2006 have been fully considered but they are not persuasive.

For amended claim 1 (old claim 4), Applicant argues as follows: Michaelson does not re-route a course by identifying one or more non-user waypoints, but only alerts the crew to a new heading to steer or engine setting to avoid collisions. Michaelson only suggests a heading change to avoid an obstacle.

Reference rejection of claim one. By Michaelson alerting the crew to a new heading to avoid potential collisions, Michaelson is re-routing a course by identifying non-user waypoints. In addition, column 13, lines 56-67 and column 14, lines 1-4 disclose a course that is re-routed by identifying non-user waypoints. See also figure 9A.

For claim 19, Applicant argues as follows: Bailey does not disclose analyzing cartographic data only within the user defined graphical filter area for the preselected

conditions. Bailey discloses an automatic display scale changing is provided in response to the detected bottom going off-scale or in response to the detected bottom rising to within a predetermined depth.

The display screen, which includes preselected conditions (Fig. 1) is completely customizable (user defined) by the user via the control switches 16a. Therefore, cartographic data is analyzed only within the user defined graphical filter area for the preselected conditions.

For claim 47, Fujimoto '958's only line that relates to water depth is item 43, which depicts a seabed and therefore simply cannot be substantially straight.

See the straight line in figure 3, item 45 which relates to alarm water depth line paragraph 0073.

For claim 50, because Fujimoto '958 does not depict a difference in a line, Fujimoto does not disclose a line depicted in a first manner where the water depth is expected to be greater than the minimum water depth and the line is depicted in a second manner where the water depth is expected to be less than the minimum water depth.

See figure 23, the line for the water depth (124) is depicted in a first manner as a non-alarming condition where the seabed line (125) does not intersect the water depth line. Furthermore, 124 is depicted in a second manner as an alarming condition where the seabed line intersects the water depth line to produce an alarm (128).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Mehmood whose telephone number is (571) 272.2976. The examiner can normally be reached 8:00-4:30, M-F.

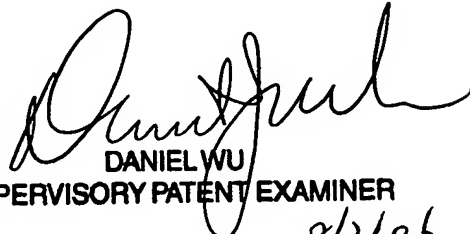
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Daniel Wu can be reached at (571) 272.2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273.8300 for regular and after final communications.

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Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272.2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Mehmood
July 28, 2006


DANIEL WU
SUPERVISORY PATENT EXAMINER
8/31/06